

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Katharine I. Butler,)	C/A No.: 3:10-cv-794
)	
Plaintiff,)	
)	
vs.)	MEMORANDUM OF THE CITY
)	OF COLUMBIA
City of Columbia, South Carolina)	
)	
Defendants.)	
)	

At this time, the Attorney General has not pre-cleared the April 6th election to fill the vacancy in District 2.

The City of Columbia (“City”) submitted its initial request for expedited review for pre-clearance on March 10, 2010. (Butler’s Exhibit D). On March 25, 2010, the City supplemented its request for an expedited review in light of the ruling by the South Carolina Supreme Court in Denman v. City of Columbia, et al., S.C. Sup.Ct. Order dated March 24, 2010 (Shearhouse Adv.Sheet No. 12). (City’s Exhibit A). On March 30, 2010, the City supplemented its request for expedited review in light of Plaintiff Butler’s filing in this Court. (City’s Exhibit B).

If the Attorney General was not aware of the claimed changes affecting voting within the meaning of Section 5 as alleged in the Plaintiffs’ complaint, he is now because of the City’s third supplemental request for an expedited review.

The Supreme Court has ruled that state law requires the election to fill the vacancy in District 2 on April 6th. See, Denman v. City of Columbia, et al., S.C. Sup.Ct. Order dated March 24, 2010 (Shearhouse Adv.Sheet No. 12)

If the election to fill the vacancy in District 2 proceeds on April 6th without pre-clearance by the Attorney General or over an objection by the Attorney General, the election should be set aside. N.A.A.C.P v. Hampton County Election Commission, 470 U.S. 166, 105 S.Ct. 1128 (1985).

Had the City not sought pre-clearance prior to the date of the election, an injunction would be an appropriate remedy. Lopez v. Monterey County, California, 519 U.S. 9, 117 S.Ct. 340 (1996)

However, the City has requested pre-clearance and made the Attorney General aware of the issues as they have come to light. The City will provide any additional information that the Attorney General may request to assist with the Section 5 pre-clearance decision. The Attorney General has yet to object or pre-clear.

The City has submitted all documentation as required by Section 5. The City takes no position on the issuance of an injunction.

s/Kenneth E. Gaines
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March 31, 2010